

### Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The final Office Action dated November 3, 2004, indicated that claims 1, 2 and 5 are rejected under 35 U.S.C. § 103(a) over *Whitesides et al.* (U.S. Patent No. 5,900,160) in view of *Biebuyck et al.* (U.S. Patent No. 5,817,242) and *Hawkins et al.* (U.S. Patent No. 5,201,987); claim 3 is rejected under 35 U.S.C. § 103(a) over *Whitesides et al.* in view of *Biebuyck et al.* and *Hawkins et al.* and further in view of *Maracas et al.* (U.S. Patent No. 5,937,758); claims 6 and 11-13 are rejected under 35 U.S.C. § 103(a) over *Whitesides et al.* in view of *Biebuyck et al.*; claim 7 is rejected under 35 U.S.C. § 103(a) over *Whitesides et al.* in view of *Biebuyck et al.* and further in view of *Whitesides et al.* (Article Soft lithography Agnew. Chem. Int. Ed. 1998, vol. 37 pages 551-575); and claim 14 is rejected under 35 U.S.C. § 103(a) over *Whitesides et al.* in view of *Biebuyck et al.* and further in view of *Choquette et al.* (U.S. Patent No. 6,245,412).

The Examiner fails to acknowledge certain limitations of the claimed invention and proposes modifying the '160 reference to render a result that is not supported by the method taught in the reference. Without an assertion of correspondence to each of the claimed limitations, the rejections do not satisfy the requirements of a *prima facie* case of obviousness. Moreover, the Examiner relies on flawed rationale to support the various proposed modifications of the '160 reference. Applicant respectfully rebuts these misplaced allegations and traverses each of the Section 103(a) rejections.

As an example of the failure to acknowledge claim limitations (therefore failing to acknowledge the invention "as a whole"), the Examiner fails to identify where the cited references correspond to each of the limitations of claims 6, 7 and 11-14. Applicant fails to see where any of the references teach the claimed "making a replica of the patterned mold surface in the first body with a patterned surface, wherein the replica contains structures of different sizes." See claim 6. The citation to Figures 9d-e of the '160 reference shows Figure 9e as the negative (or opposite) of the surface of the article in 9d, not a replica of a patterned mold surface, as claimed. The Examiner's unsupported assertion that the claimed replica is taught by the '160 reference with respect to claim 7 fails to indicate any further corresponding teachings in the '160 reference. Moreover,

Applicant's review of the '160 reference did not reveal any teachings corresponding to the claimed making of a replica. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejections cannot be maintained. Accordingly, Applicant requests that the rejections be withdrawn.

With respect to the rejection of claims 1-3 and 5, the Section 103(a) rejection is improper because the '160 reference teaches away from the proposed modification and because this modification would frustrate the purpose of the '160 reference. The MPEP explains that when a proposed modification opposes the teachings of the prior art or would render the teachings being modified unsatisfactory for their intended purpose, then there is no suggestion or motivation to make the proposed modification under 35 U.S.C. § 103(a). *See* MPEP § 2143.01. The Examiner proposes a result that is not supported by the '160 method which is directed to creating a stamping surface having a pattern of closely-spaced features. *See* Col. 7, lines 10-18. The Examiner's proposal to modify this pattern to include different sized apertures would destroy the closely-spaced relationship of the '160 features in the stamping pattern. For example, by providing a larger aperture in a pattern seemingly defined by closely-spaced protrusions, the protrusions defining the larger apertures are no longer closely-spaced – the larger aperture destroys the close spacing which is intended to define the pattern, thereby undermining the method of the '160 reference. *See* Col. 7, lines 10-18. The evidence of record would not lead the skilled artisan to modify the '160 reference as proposed; therefore, Applicant requests that the rejection be withdrawn.

Applicant respectfully disagrees with the Examiner's unsupported assertion at page 6 that "it would be of no advantage to limit the use of stamp to pattern recesses of the same size." The '160 reference is directed to such advantages and is statutorily presumed to be useful due to its issuance as a patent and in accordance with 35 U.S.C. § 101. The Examiner's stated motivation for modifying presumably useful teachings directly contradicts the basic tenets of U.S. patent law.

Applicant also respectfully traverses the Examiner's unsupported assertion that creating different sized apertures may be achieved merely by masking. The Examiner mistakenly relies on teachings directed to silicon etching. Applicant requests evidence of this assertion as it applies to the claimed stamp body.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Mr. Peter Zawilski, of Philips Corporation at (408) 474-9063.

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